

**IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

WALTER TORRES and)	
NARCISCO LOPEZ,)	
)	
Plaintiffs,)	
)	
vs.)	No. 3:10-0859
)	Judge Campbell
STONE WORLD, INC.,)	Magistrate Judge Griffin
)	
Defendant.)	

INITIAL CASE MANAGEMENT ORDER

Pursuant to Fed. R. Civ. P. 26(f) and LR16.01(d), counsel for both parties have conferred and hereby submit the following proposed Initial Case Management Order.

1. JURISDICTION: This Court has federal question jurisdiction pursuant to 28 U.S.C. §1331 and §1337, because this action arises under the Fair Labor Standards Act (“FLSA”), 29 U.S.C. §§ 201 *et seq.* The parties do not dispute jurisdiction or venue.

2. PLAINTIFFS’ THEORY OF THE CASE: Plaintiffs routinely worked for Defendant employer over forty hours in a work week. During those times they were not compensated at one and a half times their regular rate of pay as required by the FLSA. The pay records indicate Defendant knew they were not compensating Plaintiffs properly.

There also may be an issue as to Caucasians receiving overtime pay for hours worked in excess of 40 hours per week and Hispanics not receiving overtime pay for the same hours worked in violation of 42 USC § 1988 and other United States Codes and Constitutional provisions. If so, Plaintiffs will amend their Complaint accordingly.

3. DEFENDANT’S THEORY OF THE CASE: Defendant Stone World, Inc. (“Stone World”) admits that Plaintiffs worked for it as hourly employees, but denies that it willfully

violated the FLSA, or if it is determined that Stone World did violate the FLSA, that it did so in bad faith.

4. IDENTIFICATION OF THE ISSUES.

- (a) **Resolved issues:** Jurisdiction and venue.
- (b) **Unresolved:** Liability and damages.

5. INITIAL DISCLOSURES AND STAGING OF DISCOVERY

- (a) **Initial Disclosures:** January 31, 2011.
- (b) **Completion of all Discovery:** August 1, 2011.
- (c) **Expert Disclosures (Rule 26):**
 - (i) Plaintiffs' Rule 26 experts: May 2, 2011.
 - (ii) Defendant's Rule 26 experts: June 1, 2011.
 - (iii) Plaintiffs' Rebuttal Rule 26 experts: June 15, 2011.

All discovery-related motions shall be filed on or before August 5, 2011. Before filing any discovery related motion, the parties will schedule and conduct a telephone conference with the Magistrate Judge.

6. DISPOSITIVE MOTIONS: All dispositive motions shall be filed on or before September 1, 2011. Responses to dispositive motions shall be filed within twenty-nine (29) days after filing, and optional replies shall be filed within fourteen (14) days after filing of the response.

7. OTHER DEADLINES:

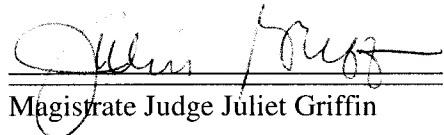
- (a) **Motions to Join Parties:** February 15, 2001.
- (b) **Motions to Amend Pleadings:** March 15, 2011.

8. ALTERNATIVE DISPUTE RESOLUTION:

The parties have not reached an agreement concerning alternative dispute resolution at this time.

9. TARGET TRIAL DATE:

The trial of this matter is expected to last no more than three days. Trial is anticipated on February, 2012.



Magistrate Judge Juliet Griffin

Approved for entry:

HIGGINS, HIMMELBERG & PILIPONIS

By: s/ Jonathan A. Street
Jonathan A. Street, #021712
James S. Higgins, # 016142
116 Third Avenue, South
Nashville, TN 37201
Phone: (615) 353-0930
Fax: (615) 353-0963

Attorneys for Plaintiffs

DICKINSON WRIGHT PLLC

By: s/ Martin D. Holmes
Martin D. Holmes, #012122
Fifth Third Center, Suite 1401
424 Church Street
Nashville, TN 37219
Telephone: (615) 244-6538
Facsimile: (615) 256-8386

Attorneys for Defendant

Respectfully submitted,

DICKINSON WRIGHT PLLC

By: s/ Martin D. Holmes

Martin D. Holmes, #012122
Fifth Third Center, Suite 1401
424 Church Street
Nashville, TN 37219
Phone: (615) 244-6538
Fax: (615) 256-8386

Attorneys for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on this 28th day of December, 2010, a true and exact copy of the foregoing has been served upon filing users through the Electronic Filing System and to all parties not served through the Electronic Filing System via U.S. Mail to:

Jonathan A. Street
James S. Higgins
Higgins, Himmelberg & Piliponis
116 Third Avenue, South
Nashville, TN 37201

Attorneys for Plaintiffs

s/ Martin D. Holmes
Martin D. Holmes